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March 20, 2026 1:18 PM
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WESTERN DISTRICT OF MICHIGAN
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OLGER HERNEY MONTAGUTH PEREZ
Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security;
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
KEVIN RAYCRAFT, Field Office Acting Director of Enforcement and Removal Operations;
Warden, North Lake Processing Center (operated by The GEO Group, Inc.)

Respondents.

Civil Action No.

Immigration No. A [redacted]

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. §2241

1:26-cv-920
Robert J. Jonker - U.S. District Judge
Phillip J. Green - Magistrate Judge

This action challenges the continued civil immigration detention of Petitioner Olger Herney Montaguth Perez under 28 U.S.C. §2241. Petitioner previously obtained habeas relief from this Court ordering the Government to provide a bond hearing or release him from custody. Although a bond hearing was conducted, the Immigration Judge denied bond based on speculative conclusions regarding Petitioner's address history and unsupported allegations of fraud, despite the absence of any criminal history or failure to comply with immigration supervision. Petitioner remains detained at the North Lake Processing Center while administrative appeals remain pending. Because Petitioner's continued detention rests on an arbitrary and unsupported custody determination, habeas relief is warranted. Habeas corpus exists to provide prompt relief from unlawful detention.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. §2241 because Petitioner is in federal immigration custody in violation of the Constitution and laws of the United States.

2. Petitioner is currently detained at the North Lake Processing Center in Baldwin, Michigan, which lies within the Western District of Michigan.

3. Venue is proper under 28 U.S.C. §1391 and §2241.

4. Federal courts retain jurisdiction under 28 U.S.C. §2241 to review the legality of immigration detention. See INS v. St. Cyr, 533 U.S. 289, 305 (2001) (recognizing habeas jurisdiction over immigration custody); Demore v. Kim, 538 U.S. 510, 516 (2003).

II. PARTIES

5. Petitioner Olger Herney Montaguth Perez is a native and citizen of Venezuela currently detained by Immigration and Customs Enforcement.

6. Respondent Kristi Noem is the Secretary of the Department of Homeland Security and is responsible for the administration of immigration detention.

7. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement.

8. Respondent Kevin Raycraft is the Detroit Field Office Director responsible for Petitioner's custody.

9. Respondent Warden of North Lake Processing Center is the immediate custodian of Petitioner.

III. FACTUAL AND PROCEDURAL BACKGROUND

A. Entry and Immigration History

10. Petitioner entered the United States on April 4, 2022.

11. Petitioner was subsequently granted Temporary Protected Status (TPS) by U.S. Citizenship and Immigration Services.

12. TPS authorized Petitioner to remain in the United States and obtain employment authorization through April 2025.

13. Petitioner filed Form I-589 seeking asylum, withholding of removal, and protection under the Convention Against Torture on February 13, 2023.

B. First Federal Habeas Petition

14. On February 6, 2026, this Court granted Petitioner's first habeas corpus petition.

15. Despite this Court's prior order requiring a meaningful custody determination, the Immigration Judge denied bond based on speculative conclusions regarding Petitioner's address history and unsupported assertions of "indicia of fraud," rather than individualized evidence demonstrating that Petitioner posed a flight risk or danger to the community.

16. The Court ordered the Government to provide Petitioner with a bond hearing under 8 U.S.C. §1226(a) within five business days or release him from custody.

17. The Government conducted a bond hearing before the Immigration Court.

C. Immigration Judge's Bond Denial

18. On February 12, 2026, the Immigration Judge denied Petitioner's request for bond.

19. The Immigration Judge concluded that Petitioner presented a flight risk because his documentation referenced addresses in several states and therefore allegedly demonstrated a "transient lifestyle."

20. The Immigration Judge also stated that Petitioner's documentation contained an "indicia of fraud," despite identifying no fraudulent document or misrepresentation.

21. The decision relied on the fact that documents referenced addresses in:

22. Florida

23. Michigan

24. Maine

25. Indiana.

26. The Immigration Judge's flight-risk finding is further undermined by the absence of any evidence that Petitioner has ever failed to comply with immigration supervision requirements. The bond decision does not identify a single missed immigration court appearance, failure to report to ICE, or violation of supervision conditions. To the contrary, Petitioner previously participated in ICE's Alternatives to Detention (ATD) program and complied with all reporting obligations. The absence of any history of non-appearance directly contradicts the conclusion that Petitioner presents a flight risk.

27. Courts evaluating immigration detention have repeatedly emphasized that speculation cannot substitute for individualized evidence demonstrating that a detainee is likely to abscond.

D. Address Timeline Demonstrates Legitimate Relocation

28. The addresses referenced in Petitioner's documentation correspond to different periods of residence and employment.

29. After entry, Petitioner resided in Florida, where his initial immigration filings listed a Hollywood, Florida address.

30. Petitioner later relocated to Michigan for employment and established a business and employment relationship there.

31. Numerous documents consistently identify the Michigan address [redacted], including tax filings, employer letters, vehicle titles, and business registration records.

32. Petitioner also used his uncle's address in Indianapolis as a stable mailing address for immigration filings because the residence is owned by his uncle and provides reliable mail delivery.

33. These address references reflect ordinary relocation and mailing practices rather than deception.

E. Continued Detention

34. Petitioner remains detained at the North Lake Processing Center.

35. Following the bond denial, DHS filed a Motion to Pretermit Petitioner's protection claims based on the Asylum Cooperative Agreement with Ecuador.

36. On March 6, 2026, the Immigration Judge granted the motion and pretermitted Petitioner's applications for asylum, withholding of removal, and protection under the Convention Against Torture.

37. On March 4, 2026, Petitioner had a hearing before the Immigration Court. When DHS stated its intent to file a Motion to Pretermit, the Immigration Judge stated that counsel would have ten (10) days to respond; however, the following day, on March 6, 2026, the Immigration Judge granted the Motion to Pretermit without allowing time to submit opposition.

38. Petitioner subsequently filed a motion to reconsider and opposition to the pretermission order.

39. The Immigration Judge's decision to grant the Motion to Pretermit before the expiration of the response period deprived Petitioner of a meaningful opportunity to be heard on a dispositive motion affecting his removal proceedings. Fundamental fairness in immigration proceedings requires that respondents be given the opportunity to respond to motions before the court rules. See Bridges v. Wixon, 326 U.S. 135, 154 (1945). The premature ruling further underscores the lack of meaningful process surrounding Petitioner's continued detention.

40. Petitioner remains detained while these proceedings continue.

IV. CLAIMS FOR RELIEF

CLAIM I: Failure to Provide a Meaningful Bond Hearing

41. The Due Process Clause requires that civil immigration detention be accompanied by a meaningful custody determination.

42. The Immigration Judge denied bond based on speculation regarding address discrepancies and unsupported allegations of fraud.

43. The Supreme Court has emphasized that civil detention requires meaningful procedural safeguards to ensure that detention remains justified. Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

44. The decision failed to conduct a meaningful evaluation of the relevant bond factors, including community ties, employment, and compliance with immigration obligations.

45. The hearing therefore did not satisfy the constitutional requirement of a meaningful custody determination.

46. Courts have recognized that a bond hearing must be meaningful and based on evidence rather than speculation. Where immigration detention decisions rely on unsupported assumptions rather than individualized findings, detention violates due process. See Demore v. Kim, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring) (noting that due process requires an individualized determination of detention); Rosales-Garcia v. Holland, 322 F.3d 386, 410–11 (6th Cir. 2003).

47. The Constitution requires more than a procedural formality; it requires a meaningful determination based on evidence.

CLAIM II: Bond Denial Based on Speculation and Unsupported Findings

48. The Immigration Judge concluded that Petitioner's documentation contained an "indicia of fraud."

49. However, the decision does not identify any false document, forged record, or misrepresentation.

50. Although the Government technically complied with this Court's prior order by conducting a bond hearing, the hearing did not provide the meaningful custody determination required by due process. Courts have recognized that a bond hearing must involve a genuine and individualized evaluation of whether a detainee poses a danger or flight risk. See Singh v. Holder, 638 F.3d 1196, 1203–04 (9th Cir. 2011). Where detention decisions rely on speculation rather than evidence, the hearing becomes merely a formal exercise that fails to satisfy constitutional requirements.

51. Here, the Immigration Judge relied primarily on speculation regarding Petitioner's address history and an unsupported assertion of "indicia of fraud," without identifying any fraudulent document or misrepresentation. The decision did not identify any missed court appearances, violations of supervision, or criminal history that would demonstrate a risk of flight. Because the bond denial rested on speculation rather than evidence, the hearing did not provide the meaningful custody review contemplated by this Court's prior habeas order.

CLAIM III: Continued Detention Is Arbitrary and Unconstitutional

52. Petitioner has now been detained for a prolonged period.

53. The only custody determination relied on unsupported assumptions rather than evidence of danger or flight risk.

54. The Sixth Circuit has recognized that immigration detention violates due process when it becomes unreasonable in relation to its regulatory purpose. Ly v. Hansen, 351 F.3d 263, 271–72 (6th Cir. 2003). Where the government relies on unsupported findings or speculative conclusions to justify continued detention, habeas relief is appropriate.

55. See also Rosales-Garcia v. Holland, 322 F.3d 386, 410 (6th Cir. 2003) (recognizing the strong liberty interest in freedom from civil immigration detention).

56. Because Petitioner's continued detention rests on an arbitrary bond denial, it violates the Due Process Clause. Petitioner's compliance with ATD supervision demonstrates that less restrictive alternatives to detention are effective in ensuring his appearance at immigration proceedings.

57. Petitioner has filed an appeal with the BIA for the denial of bond and will be filing another appeal with the BIA if the Immigration Judge denies the Motion to Reconsider and Opposition to the Motion to Pretermit.

58. Petitioner's detention will likely continue for a significant period while his appeals are pending before the Board of Immigration Appeals. The BIA process can take many months, and continued detention during that period serves no legitimate regulatory purpose where there is no evidence that Petitioner poses a danger or a flight risk. Although Petitioner moved between several states while seeking employment and establishing stability in the United States, he consistently complied with all immigration requirements. Petitioner was previously enrolled in ICE's Alternatives to Detention (ATD) program and fully complied with all reporting obligations, including attending every scheduled ICE appointment. This history of compliance strongly demonstrates that Petitioner does not present a flight risk

and that continued detention while awaiting the outcome of administrative appeals is unnecessary and constitutionally unreasonable.

59. Because Petitioner has already received a bond hearing pursuant to this Court's prior order, and the denial of bond rested on speculative conclusions rather than evidence of danger or flight risk, ordering another bond hearing would not remedy the constitutional violation. Under these circumstances, the appropriate remedy is immediate release.

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES IS NOT REQUIRED

60. Although Petitioner has filed an appeal with the Board of Immigration Appeals challenging the denial of bond and intends to pursue administrative review of the Immigration Judge's rulings, exhaustion of administrative remedies is not required for this Court to exercise jurisdiction over a habeas challenge to immigration detention.

61. The Sixth Circuit has recognized that habeas courts may review immigration detention even when administrative proceedings remain pending, particularly where the challenge raises constitutional concerns regarding the legality of continued custody. See Ly v. Hansen, 351 F.3d 263, 269–70 (6th Cir. 2003).

62. Moreover, exhaustion may be excused where administrative remedies are inadequate or futile to address the constitutional injury at issue. See Fazzini v. Northeast Ohio Corr. Ctr., 473 F.3d 229, 236 (6th Cir. 2006).

63. Because the Board of Immigration Appeals cannot provide immediate relief from unconstitutional detention while the appeal process remains pending, requiring exhaustion would prolong Petitioner's confinement without addressing the constitutional violations

raised in this petition. Accordingly, this Court retains jurisdiction to review the legality of Petitioner's continued detention.

64. Habeas corpus exists to provide prompt relief from unlawful detention, and where the record already establishes that detention is unjustified, release is the appropriate remedy.

VI. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a writ of habeas corpus under 28 U.S.C. §2241;
2. Order Petitioner's immediate release from ICE custody, because his continued detention rests on an unsupported bond denial that failed to provide the meaningful custody determination required by due process;
3. Alternatively, if the Court determines that further custody review is necessary, order a new bond hearing before a different Immigration Judge applying the proper legal standards; and
4. Grant such other relief as the Court deems just and proper.

VII. VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

Date: 03/19/2026

Signature: Olger Herney Montaguth Perez

Olger Herney Montaguth Perez

A# [redacted]

Petitioner, Pro Se

VIII. CERTIFICATE OF SERVICE

I certify that on this date I served a copy of this Petition by U.S. Mail on ICE, Office of the United States Attorney to the following addresses:

Office of the United States Attorney
Attn: Civil Process Clerk
Western District of Michigan
330 Ionia Avenue NW, Suite 501
Grand Rapids, MI 49503

Kristi Noem, Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
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Todd Lyons, Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street SW
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Kevin Raycraft
Acting Field Office Director, ICE ERO, Detroit Field Office
U.S. Immigration and Customs Enforcement
985 Michigan Avenue
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The GEO Group, Inc.
4955 Technology Way
Boca Raton, FL 33431

Date: 03/16/2026

Signature: Olger Herney Montaguth Perez
Olger Herney Montaguth Perez
A# [redacted]
Petitioner, Pro Se